

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

MARK LABOUE,

Plaintiff,

v.

METSO MINERALS INDUSTRIES,  
INC. a/k/a METSO MINERALS  
FROZEN PENSION PLAN and  
JOHN DOES 1, 2 and 3,

Case No. 4:17-cv-00095-DMB-JMV

Defendants.

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**DEFENDANT’S MOTION TO DISMISS COMPLAINT**

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COMES NOW, the Defendant Metso Minerals Industries, Inc. a/k/a Metso Minerals Frozen Pension Plan (“Metso” or the “Defendant”), by and through its undersigned attorneys, and respectfully moves this Court to dismiss Plaintiff’s Complaint in its entirety with prejudice pursuant to Federal Rules of Civil Procedure 12(b)(6). In support, Metso would show as follows:

1. This matter involves a former employee’s claim for disability retirement benefits, which are governed by the Employment Retirement Income Security Act of 1974, as amended, 29 U.S.C. 1001, et seq. (“ERISA”).

2. Plaintiff, Mark LaBouve (“Plaintiff”) is a former employee of Metso, who previously raised a number of allegations, when he sustained an on-the-job injury while working for Metso.

3. The parties (with Plaintiff represented by counsel) resolved those claims in full

in 2014, with Metso paying \$195,000.00 to Plaintiff as consideration for Plaintiff executing a Waiver and Release of Claims.

4. Among other things, Plaintiff specifically agreed not to file any claims under ERISA.

5. Despite releasing and agreeing not to file any ERISA claims against Metso, Plaintiff has filed the instant two-count lawsuit, with causes of action for Breach of Contract/Denial of Benefits, and Breach of Fiduciary Duty under ERISA. Specifically, Plaintiff alleges that Metso has wrongfully denied him certain disability retirement benefits in violation of ERISA.

6. Metso is entitled to dismissal with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief may be granted, because the United States Court of Appeals for the Fifth Circuit has recognized that voluntary waivers of ERISA claims are enforceable.

7. All factual allegations that are the basis for Metso's Motion to Dismiss are contained within Plaintiff's Complaint or the exhibits attached thereto.

WHEREFORE, Defendant Metso Minerals Industries, Inc. a/k/a Metso Minerals Frozen Pension Plan respectfully requests that the Court dismiss the Complaint in its entirety pursuant to Federal Rules of Civil Procedure 12(b)(6). Defendant requests such other and further relief to which it is justly entitled.

Dated this 26th day of July, 2017.

Respectfully submitted,

/s/ David M. Thomas II

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ATTORNEYS FOR DEFENDANT METSO  
MINERALS INDUSTRIES, INC. a/k/a METSO  
MINERALS FROZEN PENSION PLAN

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court by using CM/ECF system, and notice of electronic filing to attorneys for the Plaintiff this 26th day of July, 2017.

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